AMENDMENTS TO THE CLAIMS:

This following listing of claims replaces all prior listings, and all prior versions, of claims in the application.

Listing of Claims:

Claims 1-12 (Cancelled).

13. (Currently Amended) A non-aqueous secondary battery comprising:

a positive electrode,

a negative electrode, and

electrolytic solution, wherein

said negative electrode comprises graphite powder having substantially completely a crystal structure, and wherein a rhombohedral fraction, of the crystal structure of the graphite powder, is in a range of 0-20 % by weight, ~~and~~ a particle size of the graphite powder is equal to or smaller than 100 μm, and the graphite powder has a deintercalating capacity for lithium of at least 320 mAh/g.

14. (Currently Amended) A non-aqueous secondary battery comprising:

a positive electrode,

a negative electrode, and

electrolytic solution, wherein

said negative electrode comprises graphite powder having substantially completely a crystal structure, and wherein a hexagonal fraction, of the crystal structure of the graphite powder, is in a range of at least 80% by weight, ~~and~~ a particle size of the graphite powder is equal to or smaller than 100 μm, and the graphite powder has a deintercalating capacity for lithium of at least 320 mAh/g.

Claims 15-19 (Cancelled).

20. (Currently Amended) A non-aqueous secondary battery comprising:

a positive electrode,

a negative electrode, and

electrolytic solution, which is charged or discharged by repeating a reaction of intercalating and deintercalating ions at said positive electrode and said negative electrode, respectively, wherein

said negative electrode comprises graphite powder having substantially completely a crystal structure, wherein a fraction of a rhombohedral crystal structure of the crystal structure of the graphite powder is equal to or less than 20% by weight ~~and~~ a particle size of the graphite powder is equal to or smaller than 100 μm, and the graphite powder has a deintercalating capacity for lithium of at least 320 mAh/g.

21. (Previously Presented) A non-aqueous secondary battery as claimed in claim 20, wherein

said graphite powder has a fraction of a hexagonal crystal structure of the crystal structure of the graphite powder which is equal to or more than 80% by weight.

Claims 22-23 (Cancelled).

24. (Currently Amended) A non-aqueous secondary battery comprising:

a positive electrode,

a negative electrode, and

electrolytic solution, which is charged or discharged by repeating a reaction of intercalating and deintercalating ions at said positive electrode and said negative electrode, respectively, wherein

said negative electrode comprises graphite powder having a particle size equal to or smaller than 100 μm,

said graphite powder has substantially completely a crystal structure which includes both a hexagonal crystal structure and a rhombohedral crystal structure, and

the crystal structure of said graphite powder has a fraction of the rhombohedral crystal structure equal to or less than 20% by weight, and a fraction of the hexagonal crystal structure equal to or more than 80% by weight, and the graphite powder has a deintercalating capacity for lithium of at least 320 mAh/g.

Claims 25-31 (Cancelled).

32. (Previously Presented) A non-aqueous secondary battery as claimed in claim 13, wherein the crystal structure of said graphite powder includes at least a fraction having hexagonal crystal structure.

33. (Previously Presented) A non-aqueous secondary battery as claimed in claim 20, wherein the crystal structure of said graphite powder includes at least a fraction having hexagonal crystal structure.

Claims 34-38 (Cancelled).